with his wife (the plaintiff) and the defendant, his lawfully adopted son.

(3) At the time of the transaction neither the deceased nor the plaintiff owned any immovable property.

(4) Due to development in the Clementi Road area the deceased had to leave the Clementi Road property and for so doing he was given compensation.

(5) Out of the compensation he bought in October 1964 No. 73 for $23,000 which he used both as his family residence and for the purpose of his animal and kennel business.

(6) The deceased kept the title deeds.

(7) All the outgoings on No. 73 was paid for by the deceased out of his animal and kennel business.

In the view I have taken of the facts of the instant case I hold that any presumption of advancement has been rebutted. There will accordingly be an order for a declaration that the house and land situate and known as No. 73 Chua Chu Kang Road, Singapore, belongs to and forms part of the estate of Vladimir Nikolaewitch Otremsky and for costs to the plaintiff.

Order accordingly.

Solicitors: *J.B. Jeyaretnam & Co.; Lee & Lee.*

BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION v. CHEONG HOON CHONG

[O.C.J. (Rajah J.) October 28, 1980]

[Singapore — Civil Suit No. 2277 of 1977]

Bankruptcy — Charge — Charge stamped up $140,000 — Chargor only liable up to amount covered by the stamping.

The plaintiffs claimed against the defendant for the sum of $70,454.43 under clause 21 of a registered charge which was created by the defendant and one Lao, co-owners of the property charged. The charge was to secure partially up to M$140,000 credit facilities granted by the plaintiffs to the firm of Sharikat Alpha Associates of which the defendant and Lao were partners. Lao became a bankrupt on April 25, 1971 when the firm was owing the plaintiffs in the region of about M$159,000. At the date of the said bankruptcy the charge had only been stamped up to $140,000. The Official Assignee admitted liability only to the extent of M$140,000 and the plaintiffs on payment to them of the said amount discharged the charge. The present claim by the plaintiffs was for the balance of the unsecured monies owing by the bankrupt to the plaintiffs in respect of the credit facilities given to the firm by them.

Held, dismissing the plaintiffs' claim: the chargors were only liable up to the amount covered by the stamping and no more.

Case referred to:-

(1) *In re Waterhouse's Policy* [1937] 1 Ch. 415.

CIVIL SUIT.

David Wee for the plaintiffs.

K.C. Yeo for the defendant.

Rajah J.: The plaintiffs claim against the defendant, as pleaded in paragraph 7 of its amended statement of claim, is for the payment of the sum of $70,454.43 under Clause 21 of a registered charge dated November 21, 1969 over land in the District of Kuala Lumpur, West Malaysia, which charge was created by the defendant Cheong Hoon Chong and one Lao Kee Yam, co-owners of the property. The charge was to secure partially up to M$140,000 the following credit facilities granted by the plaintiffs to the firm of Sharikat Alpha Associates of which the said two co-owners were partners: —

"Line of Credit — M$200,000 —

Within Line:

(a) M$60,000 — for establishing irrevocable sight letters of credit with title documents covering the importation of your company's line of products.

(b) M$140,000 — for trust receipt up to 90 days to finance documentary import collections drawn on sight D/P terms as well as imports drawn under our letters of credit.
Interest rate presently at 9½ p.a.

AND/OR — for overdrafts in current account up to 30 days.
Interest rate presently at 9½ p.a.

AND/OR — for shipside bonds to 14 days.
Interest rate at 9½ p.a."

Interest rate at 9%.

The said Lao Kee Yam became a bankrupt on April 25, 1971 when the firm was owing the plaintiffs in the region of about M$159,000. It is not in dispute that at the date of the bankruptcy of the said Lao Kee Yam the charge had only been stamped up to M$140,000. In these circumstances the Official Assignee of the bankrupt admitted liability only to the extent of $140,000 and the plaintiffs on payment to them of the said amount discharged the charge. It is in evidence that the plaintiffs have filed a proof in the bankruptcy, presumably for the balance of the unsecured monies owing by the bankrupt to the plaintiffs in respect of the credit facilities given to the firm by them.

It is against this background that the defendant, who lives in Singapore, is now being sued here. On the claim as formulated by the plaintiffs the defendant, amongst the other defences raised, says, that as the Official Assignee has paid the secured sum of M$140,000 to the plaintiffs in full discharge of the sum secured under the charge, he is not indebted to the plaintiffs in the amount of $70,145.53 as alleged or at all. The defendant further says that plaintiffs' amended statement of claim discloses no cause of action against him and ought to be dismissed with costs.

As the plaintiffs' claim is based solely on Clause 21 of the charge it becomes necessary to look at Clause 21 carefully.

Clause 21 reads: —

"If on realisation of this security under the National Land Code the amount recovered on the sale of the land hereby charged is less than the amount due under this Charge the chargee notwithstanding that the chargee may be the purchaser thereof at such sale shall be entitled to recover from the chargor any difference between the amount due herein and the amount so realised and until such deficit is paid by the chargor shall be entitled to charge interest on such balance due at the rate aforesaid until the date of final payment."

From a reading of this clause it is quite apparent that what this clause deals with is a situation where the amount recovered on the sale of the property charged is less than the amount due under the charge. In the instant case it is not disputed that the charge was only stamped up to $140,000 and the law is clearly established that, in such circumstances, the chargor or chargors is or are only liable up to the amount covered by the stamping and no more (*In re Waterhouse's Policy*[1]). From this it must follow that the plaintiffs' claim must stand dismissed with costs. Perhaps had the action been against the defendant, as partner in a firm to which the plaintiff bank had lent monies without security, the presentation and arguments addressed to me might well have been different.

Claim dismissed.

Solicitors: *Donaldson & Burkinshaw; Yeo Kee Chin & Co.*

HENRY & CO. (PTE.) LTD. v. JOHN GOUW & ANOR.

[O.C.J. (D'Cotta J.) October 28, 1980]
[Singapore — Civil Suit No. 669 of 1974]

Contract — Contract for work done and materials supplied — Claim for payment of balance — Counterclaim for defective work.

The plaintiffs in this case claimed that they had carried out and completed all the works and supplied all the necessary materials in accordance with 8 orders and consequently were entitled to payment. The defendants on the other hand claimed that the plaintiffs had failed to perform the contracts in accordance with the specifications and that the workmanship and materials were poor and defective.

Held, allowing the plaintiffs' claim and dismissing the counter-claim: (1) the plaintiffs had performed the work in accordance with the invoices and confirmation orders as set out in the claim and as such they were entitled to payment;

(2) the remedy for the defendants if as they alleged the work was not performed according to the specifications, or that part of the work was not done, or that materials supplied were defective and that generally the work was badly done, was to bring a cross-claim for the defects and omissions in a proper manner with supporting evidence, or, alternatively set them up in dimunition of the price;

(3) the onus was upon the defendants to show that such was the case but from the evidence, the defendants had failed to discharge that onus.

Case referred to:-

(1) *Hoenig* v. *Isaacs* [1952] 2 All E.R. 176.

CIVIL SUIT.

Mahmood Fadjiar for the plaintiffs.

Cheong Yuen Hee for the defendants.

D'Cotta J.: This is a claim by the plaintiffs, Henry & Co. (Pte.) Ltd. against both defendants, Mr. and Mrs. John Gouw for the sum of $48,971.53 being the balance due for work done and materials supplied at the request of the defendants in respect of repairs, renovations and redecoration work to No. 79 Dunbar Walk, Singapore.

The entire work and materials supplied by the plaintiffs can be found in the following eight invoices and confirmation orders in which are embodied the contract price, the methods of payment as well as the terms and conditions of sale. They are: —

1.	Invoice No. 4386 dated 20.7.73	—	AB-4
	Confirmation Order dated 29.11.72	—	AB-1
2.	Invoice No. 4387 dated 20.7.73	—	AB-7
	Confirmation Order dated 21.3.73	—	AB-6
3.	Invoice No. 4388 dated 20.7.73	—	AB-12
	Confirmation Order dated 21.3.73	—	AB-8
4.	Invoice No. 4389 dated 20.7.73	—	AB-17
	Confirmation Order dated 21.3.73	—	AB-15
5.	Invoice No. 4390 dated 20.7.73	—	AB-19
	Confirmation Order dated 6.6.73	—	AB-18
6.	Invoice No. 4354 dated 5.7.73	—	AB-21
	Confirmation Order dated 29.6.73	—	AB-20
7.	Invoice No. 4419 dated 6.8.73	—	AB-24
	Confirmation Order dated 16.7.73	—	AB-22
8.	Invoice No. 5002 dated 12.4.74	—	AB-27
	Confirmation Order dated 20.11.73	—	AB-26

The total cost for the entire work to be done including materials supplied amounted to $60,979.53. The plaintiffs received two payments: one for $7,000 by way of deposit and the second for $5,000 was made in January 1974. The plaintiffs' claim is for the balance and costs.

It is interesting and important as well at this stage to take note that all the eight invoices with supporting confirmation orders were signed by either the 1st or 2nd defendant in which were printed the following conditions — In the case of confirmation orders thus —

"Please sign and return to us this confirmation copy together with the deposit as works will only be started from date of receipt of the deposit and this signed confirmation."

In the case of invoices, thus —

"Complaints, if any, must be made in writing within 7 days after receipt of this invoice, otherwise will not be entertained. If this invoice has not been paid within 30 days an interest of 1% on the total of this invoice will be charged per month."

In addition to this, with every confirmation order is attached on the reverse a "Conditions of Sale" — see AB3 in which various conditions and terms of contract are set out.

The plaintiffs claim is simply that they had carried out and completed all the works and supplied all the necessary materials in accordance with the eight orders and consequently are entitled to payment.

The defendants on the other hand contend that the plaintiffs had failed to perform the contracts in accordance with the specifications; that they failed to supply certain materials and/or labour which they contracted for and generally the works were badly executed the materials were defective and workmanship poor: in short the work was not done to the expectations and satisfaction of the 2nd defendant (hereinafter called "Mrs. Gouw"). I might mention here that Mrs. Gouw dealt mostly with the plaintiffs in this dispute.

Mr. Luke Yong (PW1) managing director of the plaintiffs firm gave evidence in a straightforward manner. He stated that he had been in this business of interior decoration for more than 27 years. The gist of his evidence was that the plaintiffs had carried out their work stage by stage methodically from the 1st confirmation order signed by the defendants on No-